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March 15, 2021

BY ECF

Honorable Andrew L. Carter Jr.  
United States District Court  
Southern District of New York  
Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, New York 10007

Re: Lovati et al. v. The Bolivarian Republic of Venezuela - Case No. 19-cv-04793  
Lovati et al. v. The Bolivarian Republic of Venezuela - Case No. 19-cv-04796

Your Honor:

We represent Plaintiffs in the above-entitled actions and write, pursuant to Your Honor's Order dated January 19, 2021 (D.E. 47), to update the Court on Plaintiffs' efforts to serve process on the Defendant, the Bolivarian Republic of Venezuela pursuant to 28 U.S.C. § 1608(a)(4) of the Foreign Sovereign Immunities Act ("FSIA").

By way of background, the Republic has breached its contractual obligations to accept service of process. On November 11, 2020, Your Honor entered identical Orders in the above-referenced actions concluding that, given the Republic's breaches, Plaintiffs' prior service attempts did not strictly comply with the requirements of 28 U.S.C. § 1608(a)(1); the Orders therefore directed FSIA service through other means. (D.E. 44 & 50.) As we reported on January 15, 2021, Plaintiffs thereafter took steps to serve the Republic through diplomatic channels via the United States Department of State, consistent with 28 U.S.C. § 1608(a)(4). (D.E. 46 & 52.) Consistent with State Department and Southern District protocol for FSIA service, on January 4, 2021, the Clerk filed Certificates of Mailing reporting that the papers had been transmitted to the State Department for service through diplomatic channels. (D.E. 45, 51.)

Since our January report, we have been in touch with personnel within the State Department responsible for coordinating service of the papers upon the Republic. Unfortunately,

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last week said personnel informed us that the State Department was unable to locate the papers that had been submitted for one of the actions, namely Case No. 19-cv-04793. Although FedEx tracking receipts confirm delivery of both packages to the State Department on the morning of January 5, 2021, the State Department told us last week that it has been able to locate the papers for only one of the actions. The State Department personnel cited the remote-work environment as a factor in the missing papers, and asked our firm to resubmit service papers for that action through the Southern District following the same protocol as before, whereupon the State Department will take steps to effect service upon the Republic in both actions.

Consistent with the State Department's request, last week we resubmitted the materials to the Clerk's office, and understand the papers were delivered last Friday. Our hope and expectation is that the Clerk will forward these materials to the State Department this week and that the State Department thereafter will take steps to serve the Republic consistent with 28 U.S.C. § 1608(a)(4).

Meanwhile, given these developments, which were not due to any fault of Plaintiffs, we respectfully request that the Court authorize an additional 60 days for the completion of service, and direct Plaintiffs to report on status by no later than May 14, 2021.

Respectfully,

David T. McTaggart

DMT:hs

cc: Kent A. Yalowitz, Esq. (via ECF)